

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**JOHN KIRK OWENS,**

**Plaintiff**

**v.**

**CITY OF McDONOUGH, GEORGIA;  
KENNETH B. NOBLE; JOHN  
ABERNATHY; and WILLIAM STOKES,**

**Defendants**

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**CIVIL ACTION FILE NO. 5:09-CV-399**

**DEFENDANT JOHN ABERNATHY'S MOTION TO DISMISS**

COMES NOW Defendant John Abernathy, one of the named Defendants in the above-styled action, by and through his attorneys of record, and for the reasons set out fully in Defendant Abernathy's Brief in Support of His Motion to Dismiss, filed simultaneously herewith, hereby moves this Court pursuant to F.R.C.P. 12(b)(6) to dismiss all of Plaintiffs' claims against him in the above-styled action.

This 14th day of January, 2010.

/s/ Virgil L. Adams

**VIRGIL L. ADAMS**

Georgia Bar No. 004625

/s/ D. James Jordan

**D. JAMES JORDAN**

Georgia Bar No. 404465

/s/ Caroline W. Herrington

**CAROLINE W. HERRINGTON**

Georgia Bar No. 153008

Attorneys for Defendant John Abernathy

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**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served all parties in this case in accordance with the Notice of Electronic Filing ("NEF"), which was generated as a result of electronic filing in this Court.

/s/ Caroline W. Herrington  
**CAROLINE W. HERRINGTON**  
Georgia Bar No. 153008

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